

D.N. UWY-CV-15-6025912-S

JAMES GRECHKA

v.

WHOLE FOODS MARKET GROUP, INC.

SUPERIOR COURT

J.D. OF WATERBURY

AT WATERBURY

NOVEMBER 1, 2016

**MOTION TO SEAL CONFIDENTIAL RECORD**  
**AND SUPPORTING MEMORANDUM**

Pursuant to Connecticut Practice Book § 11-20A (c), Defendants, WFM Properties Cheshire, LLC (hereafter “WFM Properties” or “Defendant”) and Whole Foods Market Group, Inc., hereby move to seal Exhibit A to WFM Properties’ Motion for Summary Judgment.<sup>1</sup> In moving for summary judgment, WFM Properties has cited as an exhibit the lease entered into by itself and co-defendant Whole Foods Market Group, Inc (hereinafter “Whole Foods”). The lengthy lease at issue contains WFM Properties and Whole Foods’ business and trade secrets. WFM Properties respectfully requests that the Court seal this exhibit.

By Writ, Summons, and Complaint dated December 17, 2014, Plaintiff James Grechka brought a negligence action for personal injuries against Defendant Whole Foods arising out of a trip and fall accident that occurred on October 4, 2013. On August 4, 2016, Plaintiff filed his Amended Complaint. According to the Amended Complaint, Plaintiff, while lawfully on the premises in the course of his employment, tripped and fell on allegedly uneven pavers on a walkway leading into the office trailer of non-party Lily Transportation located at 400 East Johnson Avenue, Cheshire, Connecticut. *See Amended Complaint (133.00)*.

The real property known as 400 East Johnson Avenue, Cheshire, Connecticut is compromised of that part occupied by Defendant Whole Foods, which operates a Distribution

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<sup>1</sup> Pursuant to Connecticut Practice Book § 7-4C, the exhibit at issue has been lodged with the Court.

**ORAL ARGUMENT IS REQUESTED**  
**TESTIMONY IS NOT REQUIRED**

Center thereon, and that part wholly occupied by non-party Lily Transportation, a trucking company. WFM Properties is the title holder and owner of the real property known as 400 East Johnson Avenue, Cheshire, Connecticut. WFM Properties leased the real property at issue to Defendant Whole Foods. Defendant Whole Foods then leased to non-party Lily Transportation the area on which the office trailer is located and the surrounding area. Subsequent to entering into the lease, Lily Transportation installed its office trailer and the paver walkway leading from the road to the office trailer on the portion of the premises that it leased from Defendant Whole Foods.

In Count Two of the Amended Complaint, Plaintiff alleges that WFM Properties owned, possessed, managed, controlled, and maintained the premises at issue, including the paver walkway. Plaintiff claims that WFM Properties was negligent in that it failed to maintain, repair, inspect, warn about, or protect against the allegedly defective paver walkway.

In response, WFM Properties, simultaneously with this motion, is filing a Motion for Summary Judgment. In its Motion for Summary Judgment, WFM Properties argues that, as a matter of law, it owed no duty to Plaintiff regarding the paver walkway because, under the clear and unambiguous terms of the lease, it did not possess or control the paver walkway. In support of its argument, WFM Properties cites to the relevant portions of the lease.

In drafting its Motion for Summary Judgment, it became apparent that WFM Properties would have to disclose the lease to Plaintiff and the Court in support of its Motion. The lease, however, contains confidential information regarding WFM Properties' business and trade secrets. The parties negotiated and agreed to enter into a confidentiality agreement so that the lease at issue would not be made available to the public.

Pursuant to Practice Book § 11-20A (c), the Court may order that portions of the Court file be sealed if it concludes “that such order is necessary to preserve an interest which is determined to override the public's interest in viewing such materials.” Connecticut Courts have recognized that a party’s need to maintain the confidentiality of documents containing sensitive business information may override the public’s interest in viewing those documents. See Brown & Brown, Inc. v. Blumenthal, 297 Conn. 710, 736 (2010).

In the present case, the information contained in the lease at issue concerns Whole Foods and WFM Properties corporate structure, procedures, and policies. This is highly sensitive, proprietary information. Releasing this information to the general public, specifically Whole Foods’ competitors, would be detrimental to Whole Foods business interests. Whole Foods has made extensive efforts to maintain the confidentiality of this information, as evidenced by its attainment of Plaintiff’s agreement to enter into a confidentiality agreement regarding this lease.

Accordingly, pursuant to Practice Book § 11-20 A (c), WFM Properties and Whole Foods request that Exhibit A attached to its Motion for Summary Judgment be sealed in order to preserve its interest in maintaining confidentiality of this information, an interest that overrides the public’s interest in viewing this exhibit. Moreover, the relief sought by WFM Properties and Whole Foods are sufficiently limited, narrowly tailored, and no broader than necessary to protect its overriding interest in confidentiality.

WHEREFORE, WFM Properties and Whole Foods respectfully request the following:

1. The entry of an immediate, temporary order sealing Exhibit A attached to WFM Properties’ Motion for Summary Judgment, pending a determination of the present motion; and

2. After consideration of this motion on short calendar, the entry of an order permanently sealing Exhibit A attached to WFM Properties' Motion for Summary Judgment.

By: /s/ 407426

**CERTIFICATE OF SERVICE**

I hereby certify that on November 1, 2016, a copy of the above was mailed and/or e-mailed to the following counsel and pro se parties of record:

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